

Fact Sheet
June 2002

Fact Sheet #4: *Further Action/Response Actions at School Sites*



SUPPLEMENTAL SITE INVESTIGATION (SSI) AND REMOVAL ACTION WORKPLAN (RAW) PROCESS

DTSC is one of six Boards and Departments within the California Environmental Protection Agency. DTSC's mission is to restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality, by regulating hazardous waste, conducting and overseeing cleanups, and developing and promoting pollution prevention.

State of California



California
Environmental
Protection Agency



Introduction

On January 1, 2000, the California Legislature enacted two new laws affecting schools in California: Assembly Bill 387 and Senate Bill 162. These new laws were amended by Assembly Bill 2644 (effective September 2000) and Assembly Bill 972 (effective October 2001). These statutes in the California Education Code require the California Department of Toxic Substances Control (DTSC) to oversee environmental assessments of potential new or expanding school sites that will receive state funding for property acquisition or new construction. DTSC's role is to ensure that the selected properties are investigated for hazardous materials. If contaminated, DTSC oversees remediation (cleanup) of these properties to protect student and staff health, and the environment.

If a Preliminary Endangerment Assessment (PEA), prepared according to Section 17213.1 of the California Education Code, shows potential contamination at a proposed school site that requires Further Action (FA), a school district has two choices:

- Elect not to pursue the acquisition or construction project at the site.
- Move ahead with the required FA under DTSC oversight to make the site suitable for school use. These FA activities may include a Supplemental Site Investigation (SSI) and, if necessary, a response action to reduce or eliminate the impact of the contaminants.

Further Action/Response Actions – Supplemental Site Investigation and Removal Action Workplan

The required FA beyond the PEA for a school site may include an SSI or a response action. Most response actions at proposed school sites will be removal actions. As provided in Section 25356.1 of the California Health and Safety Code, a Removal Action Workplan (RAW) is required for any site where the cost of a removal action is less than \$2 million.

If site conditions warrant, under Section 17213.2(f) of the California Education Code, DTSC may allow school construction to proceed in non-impacted areas concurrently with the proposed removal action. In such cases, DTSC will provide written notice of the decision to the California Department of Education (CDE). However, the school district may not occupy a school building following construction until DTSC certifies that the removal action is complete.

If, at anytime during construction at a school site, a previously unidentified contaminant or area is discovered, the school district must stop construction, notify DTSC, and take actions as DTSC requires.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our web site at www.dtsc.ca.gov.

This fact sheet details the processes involved in conducting an SSI or RAW for a potential or existing school property under DTSC oversight.

Voluntary Cleanup Agreement

Before initiating a further action, the school district enters into a Voluntary Cleanup Agreement (VCA) with DTSC to oversee the required FA at the site. While an Environmental Oversight Agreement (EOA) provides for DTSC oversight of the PEA, a VCA focuses on the SSI or RAW phases at the site. DTSC oversight of a RAW includes compliance with the California Environmental Quality Act (CEQA) requirements and public participation activities. The sample [VCA](#) with instructions is available on DTSC's web site at www.dtsc.ca.gov.

Project Scoping Meeting

The initial step towards preparing a SSI or RAW is a scoping meeting involving the school district, its consultant, and DTSC. Before this meeting, the school district should provide a scoping document to DTSC for review. A list of the [scoping document elements](#) is available on DTSC's web site. During this meeting participants will discuss the scope of work for an SSI or RAW, including the following items:

- summary of past investigations and any data gaps
- Supplemental Site Investigation (SSI)
- CEQA requirements for the RAW
- components of a RAW
- public participation activities
- schedule

Supplemental Site Investigation

Before conducting a removal action, the nature and extent of the contaminants at the proposed school site must be fully defined. During the scoping meeting, DTSC will determine the need for an SSI to define the lateral or vertical extent of the contamination. The school district prepares an SSI Workplan or Technical Memorandum (TM) for DTSC review and approval before conducting the required SSI. After completing the SSI, the school district should submit an SSI Completion Report to DTSC for review and approval.

DTSC has developed sample formats (table of contents) and instructions for preparing a [SSI Workplan](#) and [SSI Completion Report](#). These materials are available on DTSC's web site.

Based on the results of the SSI and the associated risk assessment, DTSC may decide that there are no significant human health or environmental risks despite limited contamination. In this case, DTSC would determine that No Further Action (NFA) is necessary at the site. DTSC will then inform both the school district and CDE of its NFA determination.

Removal Action Workplan

If DTSC determines that a removal action is necessary, the school district should prepare a RAW and submit it to DTSC for review and approval pursuant to Section 25356.1(c) of the Health and Safety Code. A RAW, as specified by Section 25323.1 of the Health and Safety Code, is a remedy selection document required to carry out an effective removal action that protects public health and safety, and the environment.

A RAW can address contamination across the entire site, such as removing pesticide-impacted soil from an agricultural site. A RAW can also focus on a portion of the site, such as removing soil around a building contaminated with lead from lead-based paint.

Whenever a proposed removal action has an impact on the design of a school facility, DTSC will notify the Division of the State Architect (DSA) and specify the conditions for the RAW to be properly implemented during school constructions, such as methane control systems to be installed beneath the school buildings.

Major components of a RAW

- A description of the onsite contamination, including site background information; the nature, source, and extent of the contamination; risk evaluation and cleanup concentrations.
- The goals to be achieved by the removal action, including Removal Action Objectives (RAOs) and remedial goals.
- Compliance with applicable or relevant and appropriate requirements (ARARs), including evaluation of all ARARs for the proposed removal action.
- Alternative removal options considered and rejected and the basis for that rejection; an analysis of the alternatives evaluated against the following factors: effectiveness, implementability and cost; and a basis for their acceptance or rejection. The RAW is DTSC's equivalent document to U.S. EPA's Engineering Evaluation/Cost Analysis (EECA)

document for removals. The EECA requires the preparer to consider at least three alternatives. Final remedies should generally be selected through an engineering and cost evaluation. However, based on similar site situations and through experience, DTSC may approve a common, or presumptive, remedy to streamline the process without going through a detailed evaluation. If DTSC approves a proposed presumptive remedy, the school district can prepare a focused EECA to screen out alternatives immediately and continue only evaluating the proposed presumptive remedy. See U.S. EPA's guidance on "Conducting Non-Time Critical Removal Actions" for more information.

- A detailed engineering plan for conducting the removal, including a RAW implementation plan, health and safety plan, quality assurance and quality control (QA/QC) plan, sampling and analysis plan (SAP), site restoration, air monitoring and dust control measures, and transportation plan.
- A RAW implementation schedule.

DTSC has prepared two sample RAWs for school sites – one for a simple excavation and disposal of soils contaminated with lead and the other for mitigation of subsurface methane contamination. A sample [RAW](#) table of contents is available on DTSC's web site.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires the lead agency to disclose to other public agencies and the general public any significant environmental effects of a proposed project. A proposed removal action is a different CEQA project from that prepared by the school district for school acquisition or construction. As the lead agency for approval of a RAW, DTSC will comply with CEQA requirements.

Most removal actions for proposed new or expansion school sites qualify for either (1) a categorical exemption due to small project size with mitigation cost of less than \$1 million (Section 15330 of the Cal. Environmental Quality Act), or (2) a general rule exemption due to insignificant environmental impacts of the removal project (Section 15061(b)(3) of the Cal. Environmental Quality Act). Control measures may be included in the design of the RAW to minimize potential impacts. If DTSC determines that the RAW project is exempt from CEQA requirements, DTSC will prepare a Notice of Exemption (NOE) and file it with the State Clearinghouse as part of the RAW approval process.

If a removal action project is not exempt from CEQA requirements, DTSC will prepare an Initial Study to determine the appropriate CEQA document such as a Negative Declaration or Environmental Impact Report (EIR). As part of DTSC's approval for a CEQA non-exempt RAW project, DTSC will hold a public comment period and, possibly a public hearing or meeting, for both the RAW and the related CEQA documents.

Public Participation

While the school district prepares the RAW, DTSC develops a public participation strategy to determine the level of public interest and ensure that the local community is informed of the project. This effort may include:

- Developing a community profile
- Circulating a community survey
- Distributing fact sheets or informational flyers
- Placing public notices in local newspapers
- Developing a Public Participation Plan
- Public meetings in the local community

If public interest is high, DTSC may require additional activities.

For CEQA non-exempt sites, DTSC will hold a public comment period on both the RAW and the related CEQA documents before approving them. The public comment period may include a public hearing or a public meeting. No public comment period is necessary for a CEQA NOE. However, based on expressed community interest, DTSC may hold a public comment period and, if appropriate, a public meeting during the public comment period before approving the CEQA exempt RAW. DTSC will announce the opportunities for public review and comment on the RAW related documents by circulating a fact sheet in the community and placing a public notice in local newspapers.

Approval and Implementation of an Approved RAW

If no public comment period is planned, DTSC will adopt the CEQA NOE and issue an approval letter for the RAW addressed to the school district and copied to CDE. DTSC will also file the CEQA NOE with the State Clearinghouse.

If a public comment period is held, once it has ended, DTSC will consider any public comments received,

prepare a response to comments, and revise the RAW and the CEQA documents, if appropriate. DTSC will then adopt the CEQA documents and issue an approval letter for the RAW addressed to the school district and copied to CDE. DTSC will then file the CEQA documents with the State Clearinghouse.

The school district will implement the selected remedies in accordance with the approved RAW when all public participation activities that DTSC requires have been completed. In addition, the school district should provide a 48-hour written notification of field activities to DTSC.

Operation and Maintenance (O&M)

When the selected remedy includes long-term Operation and Maintenance (O&M) activities, the school district and DTSC will enter into an O&M Agreement before site certification. The O&M Agreement is an enforceable document that requires the school district to implement an approved O&M Plan under DTSC oversight. The O&M Plan should contain a detailed description of the mitigation system and its components, as well as procedures for operation, monitoring, data acquisition, reporting, and maintenance.

RAW Completion Report and DTSC Certification

After the removal action is complete, the school district will prepare a RAW Completion Report and submit it to DTSC for review and approval. The report documents that the approved RAW's standards and objectives have been met and verifies that, if appropriate, the on-going O&M activities are implemented in accordance with the O&M Agreement.

As part of its approval of the RAW Completion Report, DTSC will issue a certification for the school site stating that all of the following conditions have been met:

- all necessary response actions have been completed
- the approved response action standards and objectives have been met and, if appropriate, the on-going O&M activities are maintained in accordance with an approved O&M plan
- post-RAW site conditions do not pose a significant risk to children or adults at the school site

As provided in Section 17213.2(g) of the California Education Code, DTSC will also notify the CDE, the DSA, and the Office of Public School Construction of the certification.

For More Information

To learn more about DTSC's school investigation and cleanup activities or to initiate a VCA with DTSC for oversight of an SSI or RAW, please contact the School Property Evaluation and Cleanup Division at:

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You are also welcome to contact the DTSC office nearest you, or call the regional Public and Business Liaisons at (800) 72TOXIC (1-800-728-6942), or visit www.dtsc.ca.gov



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